

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KERRY K.,

Plaintiff,

v.

Civil Case No. 22-11866
Honorable Linda V. Parker

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

**OPINION AND ORDER: (1) ADOPTING MAGISTRATE JUDGE'S
SEPTEMBER 15, 2023 REPORT AND RECOMMENDATION (ECF NO.
23); (2) GRANTING PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT (ECF NO. 19); (3) VACATING THE ALJ'S DECISION; AND
(4) REMANDING THE CASE FOR FURTHER PROCEEDINGS**

On September 12, 2022, Plaintiff filed this lawsuit in which she challenges the Commissioner of Social Security's ("Commissioner") decision denying her application for social security benefits under the Social Security Act. (ECF No. 1.) This Court referred the matter to Magistrate Judge Kimberly G. Altman for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. §636(b)(1)(A) and/or a report and recommendation ("R&R") on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). (ECF No. 3.) On January 16, 2023, Plaintiff filed a Motion for Summary

Judgment, ECF No. 19, followed by the Commissioner's Motion for Summary Judgment filed on January 31, 2023. (ECF No. 21.)

On August 15, 2023, Magistrate Judge Altman issued a R&R recommending that this Court grant Plaintiff's motion, deny the Commissioner's motion, vacate the decision of the Administrative Law Judge ("ALJ"), and remand the case for further proceedings consistent with the R&R. (ECF No. 23.) In the R&R, Magistrate Judge Altman explains that the ALJ "should be directed on remand to properly evaluate the treating source opinions in light of the medical evidence and correspondingly reevaluate Plaintiff's residual function capacity (RFC)." (*Id.* at Pg. ID 716.) At the conclusion, Magistrate Judge Altman advises the parties that they may object to and seek review of the R&R within fourteen (14) days of service upon them. (*Id.* at Pg. ID 742–43.) She further specifically advises the parties that "[f]ailure to file specific objections constitutes a waiver of any further right to appeal." (*Id.* at 743 (citing *Thomas v. Arn*, 474 U.S. 140, 144 (1985); *Howard v. Sec'y of Health & Human Servs.*, 932 F.2d 505, 508 (6th Cir. 1991)). Neither party filed objections to the R&R and the time to do so has expired.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Altman. The Court therefore adopts the R&R.

Accordingly,

IT IS ORDERED that Plaintiff's Motion for Summary Judgment (ECF No. 19) is **GRANTED** as to remand, and the Commissioner's Motion for Summary Judgment (ECF No. 21) is **DENIED**.

IT IS FURTHER ORDERED that the Administrative Law Judge's decision is **VACATED**, and this case is **REMANDED** for further administrative proceedings consistent with the Report and Recommendation. (ECF No. 23.)

SO ORDERED.

s/ Linda V. Parker
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: September 7, 2023